2: Dowson G-5 (1929-30) 1932 MHI Iraq MHI

possible on to a firm and complete basis of law and of fuller economic freedom everywhere, it has to be recognised that the process must be gradual, particularly in the remoter and more backward parts of the country.

Some measure of discretionary control will require to be exercised in regard to the persons accepted as lawful holders of miri land, for two reasons. In the first place, so long as there are tribal areas (dira) which must continue to be recognised, it may be necessary to restrict the holding of miri land within those areas to members of the tribal group concerned. In the second place holdings of miri land are not transmissible on death, and this would be inconsistent with that tenure as outlined. So that on the death of a miri holder a suitable successor has to be agreed upon. As we have seen the claims of the deceased holder's family to such succession are commonly admitted by prevailing custom. This is unquestionably in the public interest, provided the recognised representatives of the family are willing and able to discharge their obligations as miri holders to the community and the State. But it is necessary for the secure and economical working of miri, as of tapu tenure, that the number of representatives of a group of holders of a parcel of miri land shall be limited. In my provisional report I suggested that the number should not exceed three. In the case of holdings below a certain size (e.g. 10 misharas) limitation to a single recognised representative or holder might be advisable.

Such recognised representatives or holders should be in actual control of the land on the spot and thus effectively responsible for its cultivation and management. He or they should preferably be chosen by the deceased holder's family (or the group concerned) with the assistance, if necessary, of the local authority. Commonly he or they would have taken a leading part in the cultivation and management of the holding previously. The responsibility of a recognised holder of miri land to his family must primarily be a matter between himself and that family, as it is now. Complaints of abuse could always, also as now, be brought before the local authority, and possibly in future in certain cases before the *qadi*. Again, when the size and productivity of a miri holding permits it could, if desired, be divided on the death of a previous holder. No mortgage direct or indirect of miri land is reconcilable with the tenure as outlined, nor (for reasons given above) does this appear to me desirable (v, 2). Possibly some restriction should also be exercised over the pledging of produce and of agricultural animals and implements.

In the interests of the nation and the agricultural community as a whole, it is essential to recognise in a practical way, from the first, the economic limitation set on both the fragmentation of holdings and the multiplication of shareholding. The capacity of a parcel of land to provide a livelihood is necessarily restricted, and those who actually develop and work on it, with their immediate households, must evidently have the first call on its production. Moreover, unless there is a surplus of profit to put back into the land the general advance in the standard of agriculture, which is so greatly needed, will be retarded, if not prevented. Security of tenure is one of the primary conditions of such an advance. But security of tenure must be coupled with a wide-spread and general opportunity to make agriculture provide more than a bare and narrow livelihood for the greater mass of the population engaged in it, if any sustained national advance is to be realised. Owing to the sparsity and mobility of the country's existing population and to the backward state of its agricultural development there should be no difficulty for very many years in preventing any uneconomical congestion of the agricultural community on the land. But excessive shareholding

25: Warriner S-5 (no date) 1948 MI Middle East
Iraq MH1

sections or clans, under the direction of the sirkal, the head of the clan, who organized the members of the tribe on a share-cropping basis, the peasants generally taking a half, two-fifths, or a third of the produce.

But even on these individual holdings communal ownership is manifested in several ways: for instance by the fact that sub-tribal chiefs can be shifted from their holdings by the tribal chiefs; by the right of pre-emption and veto exercised by the tribe over transfer of land from one member to another, and especially to outsiders; the fact that women are excluded from inheriting land; the moral duty of employing members of the tribe in preference to outsiders; and in certain parts of the country, reallotment of the land on the *mushaa* system.[1]

The method of farming necessitates the existence of some measure of communal cultivation and ownership. Cultivation by irrigation involves many duties which cannot be performed by one household—the clearance of canals, the building of dams across channels, and the strengthening of the river banks; all these functions require tribal organization. Hence the head of the clan, the sirkal, was originally a manager on behalf of the tribe; he employed the peasants and divided the land among them into plots to support them until the harvest, appointed the dates of sowing, harvesting, and threshing, and organized irrigation and canal clearance.

Thus, although the tribe exercises a right of occupancy over the tribal *dirah* and can prove occupation of the whole area, it cannot be proved in the same sense that the peasant has a certain plot of his own occupied for a number of years. Within the tribal *dirah*, the area cultivated by each group shifts as canals silt up and the land is impoverished by salt, and so the area cultivated by each peasant shifts also. The peasants themselves are largely mobile, both within the tribal *dirah* and outside it; cultivation is rather half-hearted and grazing remains an alternative occupation.

It must be remembered that the tribal system, when it prevailed generally, had no legal basis, and no protection from the State; the tribe was, in fact, in itself a unit of political organization, and itself performed the State's functions. Within the

[1] From an unpublished report by Dr Salih Haider, on 'The Problem of the Land in Iraq' (1944).